

HELEN G. HAGGARD

IBLA 84-45

Decided March 21, 1984

Appeal from decision of the California State Office, Bureau of Land Management, rejecting oil and gas lease offer CA 14476.

Affirmed.

1. Oil and Gas Leases: Lands Subject to

A noncompetitive over-the-counter oil and gas lease offer is properly rejected where the subject lands were previously held in an oil and gas lease which terminated. Such land can only be made available for leasing again through a simultaneous offering pursuant to 43 CFR Subpart 3112.

2. Oil and Gas Leases: Applications: Description

An oil and gas lease offer for surveyed public lands is properly rejected where it describes the requested land by metes and bounds rather than by legal subdivision or aliquot parts thereof, section, township, and range.

3. Oil and Gas Leases: Applications: Filing

A noncompetitive oil and gas lease offer which is not accompanied by the required number of copies is properly rejected.

APPEARANCES: Helen G. Haggard, pro se.

OPINION BY ADMINISTRATIVE JUDGE IRWIN

Helen G. Haggard has appealed from the September 9, 1983, decision of the California State Office, Bureau of Land Management (BLM), rejecting her noncompetitive over-the-counter oil and gas lease offer, CA 14476. The decision stated that her offer was rejected for the following reasons: The land was included in a terminated oil and gas lease (R 4697), making it available only through the simultaneous leasing process. The offer included

less than 640 acres of available land in violation of 43 CFR 3110.1-3. ^{1/} Although 43 CFR 3111.1-1(a)(1) (1980) required that five copies of the offer be filed, appellant filed only one. The decision also pointed out that 43 CFR 3101.1-4(a) required that lands be described by legal subdivision, section, township, and range.

The case record includes one copy of appellant's offer, containing a metes and bounds description for 35 acres in the NE 1/4 of sec. 3, T. 3 N., R. 15 W., San Bernardino meridian. The historical index for this township, a copy of which was sent to appellant, indicates that oil and gas lease R 4697 terminated on November 1, 1977. This lease had included lot 1 of sec. 5 in addition to the land appellant presumably requested: SW 1/4 NE 1/4 SW 1/4 NE 1/4, S 1/2 NW 1/4 SW 1/4 NE 1/4, S 1/2 SW 1/4 NE 1/4, NW 1/4 SW 1/4 SE 1/4 NE 1/4, S 1/2 SW 1/4 SE 1/4 NE 1/4 sec. 3, T. 3 N., R. 15 W., San Bernardino meridian.

In her statement of reasons for appeal, appellant questioned the existence of a prior lease. She stated:

If the Federal lands described as N1/2 of SE [sic] 1/4 Section 3, T3N, R15W of 35 acres is sold thru lottery my adjoining 80 acre lease would be adversely affected due to the fact that said 35 acre parcel does not have straight boundaries and at some points there are very narrow portions of land.

Appellant expressed particular concern about drainage and loss of access to her present lease.

[1] The record shows that appellant applied for lands that were included in a terminated lease. 43 CFR 3112.1-1 (1980) stated:

All lands which are not within a known geological structure of a producing oil or gas field and are covered by canceled or relinquished leases, leases which automatically terminate for non-payment of rental pursuant to 30 U.S.C. 188, or leases which expire by operation of law at the end of their primary or extended terms are subject to leasing only in accordance with this subpart.

Therefore, BLM correctly rejected appellant's over-the-counter application because the lands can only be made subject to leasing again in accordance with 43 CFR Subpart 3112, governing simultaneous filings. Charles H. Whitlock, 57 IBLA 252 (1981). The amendments to 43 CFR 3112.1-1, effective August 22, 1983, do not affect the impact of this provision. See 48 FR 33678 (July 22, 1983).

[2] In addition, because the lands have been surveyed under the public land rectangular system, the offer must describe them by legal subdivision or aliquot parts thereof, section, township, and range. 43 CFR 3101.1-4. See

^{1/} As to this basis, we cannot determine from the oil and gas plat included in the record whether any adjacent lands are available for leasing.

Elliott A. Riggs, 65 IBLA 22 (1982). An offer which does not comply with this requirement is defective and properly rejected. Milan S. Papulak, 63 IBLA 16 (1982). This requirement is described to avoid ambiguity in land description and to ensure that BLM can determine the correct rental amount. Milan S. Papulak, *supra*; Charles J. Babington, 71 I.D. 110, 113 (1964). 2/

[3] Finally, 43 CFR 3111.1-1(a)(1) required that five copies of the official offer form or valid reproductions be filed. There is no indication that appellant filed more than one copy. For this reason also the application was properly rejected. Curtis Wheeler, 55 IBLA 65 (1981).

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision of the California State Office is affirmed.

Will A. Irwin
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Franklin D. Arness
Administrative Judge

2/ In addition, it appears that the metes and bounds description in appellant's offer does not close. Even had a metes and bounds description been appropriate, this alone would have been grounds for rejection.

